

REMARKS

Reconsideration and withdrawal of the rejections of the pending claims are respectfully requested in view of the amendments and remarks herein, which place the application in condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-45 are pending in this application. Claims 1-12, 23, 24, and 28 are subject to examination based on the elections with traverse by the applicants. Claims 13-22, 25-27 and 29-45 are withdrawn from further consideration. No new matter has been added.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. It is submitted that the amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112. Rather, these amendments and additions are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

The issues raised by the Examiner in the Office Action are addressed below in the order they appear in the prior Action.

II. THE 35 U.S.C. §102 REJECTIONS ARE OVERCOME

Claims 1-12, 23, 24, and 28 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Soll *et al.* (U.S. Patent No. 7,262,214).

Applicants respectfully submit the Declaration under 37 CFR 1.132, stating that Merial Limited is the common owner of U.S. Patent No. 7,262,214 (“the ‘214 patent”) and U.S. Application No. 10/783,459 (“the present application”). The ‘214 patent and the present application were commonly owned at the time the claimed invention was made or subject to an obligation of assignment that would establish common ownership. Therefore, the applicants believe that common ownership has been established and as such U.S. Patent No. 7,262,214 is disqualified as prior art.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §102(e) are respectfully requested.

REQUEST FOR INTERVIEW

If any issue remains as an impediment to allowance, prior to issuance of any paper other than a Notice of Allowance, an interview, is respectfully requested, with the Examiner his supervisor, and, the Examiner is respectfully requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

CONCLUSION

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks and amendments herein, and prompt issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,
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